IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.705 OF 2002

Smt.Zohra R. Batliwala ..Appellant.

V/s.

Income-tax Officer ..Respondent.

Mr.V.B. Joshi with Sameer G. Dalal for appellant.

Mr.R.V.Desai, senior counsel with R.Asokan for respondent.

CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 24TH JANUARY, 2005.

P.C. :-

1. Heard learned counsel for the appellant and the respondent. The appeal is admitted.

2. Learned counsel for the respondents waives service. The appeal is heard finally by the consent of the parties.

3. By this appeal, the appellant is challenging the order dated 6/2/2002 passed by the Income Tax Appellate Tribunal, A-Bench, Mumbai. The main question raised by the learned counsel for the appellant is that at the time of hearing of the appeal before the Appellate

Tribunal, the assessee had filed a paperbook containing number of documents which could not be produced before the assessing officer mainly on account of the assessee being illiterate. It appears from paragraph 3 of the impugned order herein that the said paperbook was not considered only on the limited ground that the same is not as per the Rule No.29 of the Income Tax Appellate Tribunal Rule, 1963 and without going into the question as to the relevancy of the documents for deciding the issues raised in the appeal.

4. Having regard to the facts and circumstances of the case, we feel that in the larger interest of justice the Appellate Tribunal ought to have considered the paperbook and decided the relevancy of the same. Accordingly, we quash and set aside the impugned order and remand back the matter to the Income Tax Appellate Tribunal, A-Bench, Mumbai for the matter being heard afresh. The Tribunal is directed to dispose of the matter as expeditiously as possible.

5. Rule is made absolute in the above terms. However, there will be no order as to costs.

(S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)